

AMENDED IN ASSEMBLY MARCH 20, 2014

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

ASSEMBLY BILL

No. 1610

Introduced by Assembly Member Bonta

February 6, 2014

An act to amend Section ~~1336~~ 1335 of the Penal Code, relating to material witnesses.

LEGISLATIVE COUNSEL'S DIGEST

AB 1610, as amended, Bonta. Material witnesses: human trafficking.

Existing law authorizes the defendant or the people to apply for an order that a witness be, in cases where the defendant has been charged with a serious felony, as defined, or in a case of domestic violence, to have a witness examined conditionally for a criminal trial in specified cases, including when the person is about to leave the state or is so sick or infirm that he or she will be unable to attend the trial, as specified, if there is evidence that the life of the witness is in jeopardy.

This bill would authorize the defendant or the people to apply for an order that the witness be examined conditionally when ~~the material witness is a victim of or witness to a felony prosecution involving the defendant has been charged with human trafficking, commercial sex acts, or forced labor or services and there is evidence that the life of the witness is in jeopardy or that the witness has been threatened or dissuaded from testifying, or if the court finds there is a reasonable basis to believe that the witness will not attend the trial.~~

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 *SECTION 1. Section 1335 of the Penal Code is amended to*
2 *read:*

3 1335. (a) ~~When~~ *If* a defendant has been charged with a public
4 offense triable in any court, he or she in all cases, and the people
5 in cases other than those for which the punishment may be death,
6 may, if the defendant has been fully informed of his or her right
7 to counsel as provided by law, have witnesses examined
8 conditionally in his or her or their behalf, as prescribed in this
9 chapter.

10 (b) ~~When~~ *If* a defendant has been charged with a serious felony
11 or in a case of domestic violence, the people or the defendant may,
12 if the defendant has been fully informed of his or her right to
13 counsel as provided by law, have a witness examined conditionally
14 as prescribed in this chapter, if there is evidence that the life of the
15 witness is in jeopardy.

16 ~~(e) As used in this section, “serious felony” means any of the~~
17 ~~felonies listed in subdivision (e) of Section 1192.7 or any violation~~
18 ~~of Section 11351, 11352, 11378, or 11379 of the Health and Safety~~
19 ~~Code.~~

20 (c) *If a defendant has been charged with human trafficking, as*
21 *prescribed in Section 236.1, the people or the defendant may, if*
22 *the defendant has been fully informed of his or her right to counsel*
23 *as provided by law, have a witness examined conditionally as*
24 *prescribed in this chapter if any of the following apply:*

25 (1) *There is evidence that the life of the witness is in jeopardy.*

26 (2) *There is evidence that the witness has been threatened or*
27 *dissuaded from testifying at the trial.*

28 (3) *The court finds that there is a reasonable basis to believe*
29 *that the witness will not attend the trial.*

30 (d) *If a defendant has been charged with a case of domestic*
31 *violence and there is evidence that a victim or material witness*
32 *has been or is being dissuaded by the defendant or any a person*
33 *acting on behalf of the defendant, by intimidation or a physical*
34 *threat, from cooperating with the prosecutor or testifying at trial,*
35 *the people or the defendant may, if the defendant has been fully*
36 *informed of his or her right to counsel as provided by law, have a*
37 *witness examined conditionally as prescribed in this chapter.*

(e) For the purposes of this section, ~~domestic~~ *the following definitions shall apply:*

(1) *“Domestic violence” means any a public offense arising from acts of domestic violence as defined in Section 13700.*

(2) *“Serious felony” means a felony listed in subdivision (c) of Section 1192.7 or a violation of Section 11351, 11352, 11378, or 11379 of the Health and Safety Code.*

~~SECTION 1. Section 1336 of the Penal Code is amended to read:~~

~~1336. (a) When a material witness for the defendant, or for the people, is about to leave the state, is so sick or infirm as to afford reasonable grounds for apprehension that he or she will be unable to attend the trial, is a person 65 years of age or older, a dependent adult, or is a victim of, or witness to, a felony prosecution involving human trafficking, commercial sex acts, or forced labor or services, the defendant or the people may apply for an order that the witness be examined conditionally.~~

~~(b) When there is evidence that the life of a witness is in jeopardy, the defendant or the people may apply for an order that the witness be examined conditionally.~~

~~(c) As used in this section, “dependent adult” means a person who is between 18 and 65 years of age, inclusive, who has physical or mental limitations that restrict his or her ability to carry out normal activities or to protect his or her rights, including, but not limited to, persons who have physical or developmental disabilities or whose physical or mental abilities have diminished because of age. “Dependent adult” includes any person between 18 and 65 years of age, inclusive, who is admitted as an inpatient to a 24-hour facility, as defined in Sections 1250, 1250.2, and 1250.3 of the Health and Safety Code.~~